संख्या-1/2018/148/एक-13-2018-7क(4)/2018

प्रेषक,

सुरेश चन्द्रा,
प्रमुख सचिव,
उत्तर प्रदेश शासन।

सेवा में,

समस्त जिलाधिकारी
उत्तर प्रदेश।

राजस्व अनुभाग-13 लखनऊः दिनांक 15 मार्च 2018

विषयः- एन एच एक्ट 1956 की धारा 3ए/3डी की अधिसूचना घोषित होने के पश्चात क्रय विक्रय की गई भूमि के मुआवजा भुगतान के संबंध में।

महोदय,

अवगत कराना है कि एन एच एक्ट 1956 की धारा 3ए/3डी की अधिसूचना घोषित होने के पश्चात क्रय विक्रय की गई भूमि के मुआवजा भुगतान के संबंध में माननीय उच्च न्यायालय इलाहाबाद में योजित रिट याचिका संख्या 2213/2018 सुरेंद्र नाथ सिंह यादव बनाम यूनियन ऑफ इंडिया व तीन अन्य में दिनांक 18 जनवरी, 2018 को निम्नलिखित आदेश पारित किए गए हैं

Petitioner has approached this Court seeking a writ of mandamus to command the Land Acquisition Officer/Additional District Magistrate, District Ghazipur respondent no. 4 to consider and decide his claim of compensation for acquisition of land comprising of gata nos. 646ka, 646ka and 646ga situate in village Mahmoodpur Pali, Pargana-Saidpur, District Ghazipur. Another relief claimed is mandamus to command the said respondent to decide his representation dated 31.05.2017 which is numbered as 2313 of 2017 pending before him.

Admittedly, the said land is a subject matter of acquisition under the provisions of National Highways Act, 1956 (hereinafter referred to as "Act"). Notification under Section 3- A of the Act was issued on 1.12.2014 and that under Section 3- D(2) of the Act was published on 24.09.2015. The petitioner purchased the said land from the erstwhile owner by means of registered sale deed dated 22.7.2016.

Learned counsel for the petitioner submits that on the basis of the sale deed executed by the erstwhile owner he is entitled to be paid compensation for the said land.

It is well settled proposition of law by judicial pronouncement of the Apex Court that purchaser of the land subsequent to initiation of the acquisition proceedings has no locus standi to challenge the acquisition proceedings but certainly he is a person interested in the compensation.

Reference may be made to the decision of the apex Court in the case of V. Chandrasekaran v. Administrative Officer, (2012) 12 SCC 133 wherein it has been held as under: "18. In view of the above, the law on the issue can be summarised to the effect that a person who purchases land subsequent to the issuance of a Section 4 notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour does not confer upon him, any title and at the most he can claim compensation on the basis of his vendor's title." The same view has been reiterated in a recent decision of the apex Court in the case of Government (NCT of Delhi) v. Manav Dharam Trust and another, (2017) 6 SCC 751.

1- यह शासनादेश इलेक्ट्रानिकली जारी किया गया है, अतः इस पर हस्ताक्षर की आवश्यकता नही है ।

2- इस शासनादेश की प्रमाणिकता वेब साइट http://shasanadesh.up.nic.in से सत्यापित की जा सकती है ।

http://shasanadesh.up.nic.in

In view of the settled law on the subject, subsequent purchaser is a person interested only to the extent of making a claim of compensation of the land, subject matter of acquisition.

In view of above, right of compensation being claimed by the petitioner is worthy of being considered. However, since the issue involves adjudication into a question of fact, we feel appropriate that the fact finding authority may consider the claim of the petitioner at the initial stage.

Learned Standing Counsel appearing on behalf of State respondent and Sri Pranjal Mehrotra, learned counsel appearing for respondent no. 2 fairly state that the claim made by the petitioner which is pending before the respondent no. 4 shall be considered expeditiously.

In view of above, we dispose of the writ petition directing the respondent no. 4-Land Acquisition Officer/Additional District Magistrate (Finance & Revenue), Ghazipur to consider the representation made by the petitioner, registered as Case No.2313 of 2017 pending before him in accordance with law by a reasoned and speaking order after notice and opportunity of hearing to all concerned, within a period of two months from the date of production of certified copy of this order before him.

We make it clear that we have not entered into merit of the case and the same shall be considered by the concerned authority on its own fact independently.

2- इस संबंध में मुझे कहने का निर्देश हुआ है कि कृपया माननीय उच्च न्यायालय इलाहाबाद द्वारा पारित उक्त आदेशों के अनुपालन में तत्काल कार्यवाही करने का कष्ट करेा

भवदीय,
सुरेश चन्द्रा
प्रमुख सचिव।

संख्या एवं दिनांक उपरोक्तानुसार

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित-

1- डॉ राजशेखर विशेष सचिव लोक निर्माण विभाग उत्तर प्रदेश शासन लखनऊ।
2- समस्त मंडलायुक्त उत्तर प्रदेश।
3- निदेशक भूमि अध्याप्ति निदेशालय राजस्व परिषद उत्तर प्रदेश लखनऊ।
4- क्षेत्रीय अधिकारी, पश्चिमी उत्तर प्रदेश, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण, विराज खण्ड निकट सिंगापुर मार्ग, गोमती नगर, लखनऊ।
5- गार्ड फाइल

आज्ञा से,

आर0 वी0 सिंह
संयुक्त सचिव

1- यह शासनादेश इलेक्ट्रानिकली जारी किया गया है, अत: इस पर हस्ताक्षर की आवश्यकता नही है ।
2- इस शासनादेश की प्रमाणिकता वेब साइट http://shasanadesh.up.nic.in से सत्यापित की जा सकती है ।